

1979/No. 39
Africa

Reports

The Unofficial Urban Courts in Freetown Part III: Organization, Procedures, and Financial Practices

by Barbara Harrell-Bond



In Freetown's unofficial courts, presided over by tribal headmen, arbitration and reconciliation take precedence over determination of guilt and responsibility.

[BHB-5-'79]

ISSN 0161-0724

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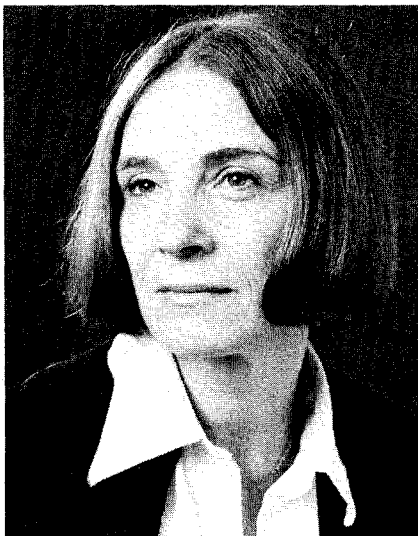
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As I am always saying, we husbands are very pathetic because of the women we marry. They are very quarrelsome creatures. They magnify trivial things which will lead to loss of money. Even we here in this court do see some cases which are very trivial and need no litigation. But we are here to decide cases, so we can't help but decide every case brought to us. The cost of living is high nowadays. We don't like people to spend their meagre monies on trivial litigation. But we can't help it. People are too quarrelsome.

The unofficial courts in Freetown have been organized by the tribal headmen in a kind of appellate system. Every headman appoints sub-headmen who reside in different parts of the urban area. These subheadmen serve as a court of first resort in their own locality. Complaints which cannot be settled easily by them are directed to the tribal head and heard in his court. Although individuals usually discuss their case with the headman, a proper settlement involves a full sitting of the court before any interested members of the public. The headman usually presides, but he is surrounded by a panel of elders. Some headmen courts are presided over by a "speaker," the headman sitting with the jurors. This practice follows the organization of chieftaincy in the Provinces where every chief has his official spokesman or "speaker." The elders participate in the process of hearing the case, and, together with the headman, take decisions. These elders serve to limit the powers of the headman and this manner of organization spreads the responsibility for unpopular court actions. As one elder put it in a speech that was made during the opening formalities of one court session:

As you have made somebody to be a chief, you can't leave him alone with the power. This is why you, the people, have placed us here.... If we leave the traditional powers invested in him alone, I think he will be misled and we don't want him to be misled. This is why we gather around him.

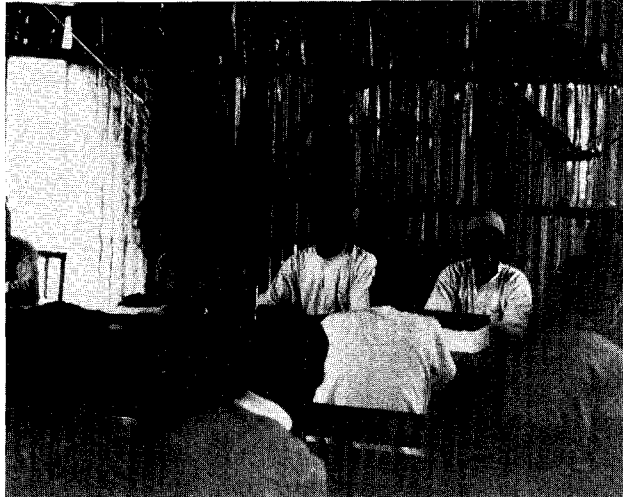
Headmen also employ other personnel for the running of their courts. These include messengers to summon witness, policemen to keep order in the court and enforce certain kinds of punishment, and clerks to keep records. Many headmen are not literate in English, and case records, when kept, are written in an indigenous language, using Arabic script,¹ although many of the clerks employed to record cases or issue summons notices and receipts are literate in English and use it for keeping court records. All these trappings of official courts are evidence of the influence of the imposed legal ideas which the indigenous system has adopted.

Court Procedures

The court may hear cases during any day of the week, but the most important court session is held on Sunday, when most people are free from work. A plaintiff who wants his case to be heard first visits the headman to explain his grievance. The time is set for the hearing and the headman extracts a "summons fee" from the plaintiff. The defendant is notified that he has been summoned to court.

Cases are usually conducted in the first language of the headman or in Krio, the lingua

1. See Barbara Harrell-Bond, "Local Languages and Literacy in West Africa," [BHB-1-'77], *AUFS Reports*, West Africa Series, Vol. XVII, No. 1, 1977.



Inside one of the unofficial courts.

franca of Sierra Leone.² The attitude toward language is highly pragmatic, however, and several languages may be spoken during a case. Interpreters may be called on from the audience where large numbers of people are usually in attendance.

It has already been noted that most Sierra Leoneans are Muslim and this is reflected in the fact that court sessions are usually opened with the audience standing, hands outstretched, palms upturned, reciting the *al-fatyah*, an Islamic prayer. Speeches are made by the elders and the headman, aimed at impressing the litigants with the authority of the court. Headmen have always had some difficulty in enforcing their authority in these unofficial courts, but this problem has been more acute since 1967 when headmen were deposed and the illegality of their courts was an issue that received considerable publicity. Often these efforts to impress exploit the ignorance of the actual legal position of the courts. References to political connections and the presence of official government informants in the court also encourage conformity. Excerpts from one opening speech are illustrative:

...This is a Local Court [untrue] and in such courts we observe things in view of native admin-

2. Krio is one of the Creole languages which developed in West Africa, first as a trading language for West Africans and Europeans who have been in contact since at least the fifteenth century. In Sierra Leone, Krio is identified as the language of the Creoles, although it is spoken in most parts of the country by people of different linguistic or ethnic background.

istration. The native courts are backed by the government, as such the government provides a law which deals with administration. This law is known as the Public Order Act Bill. The government has given the bill to Chief Abu because he was legally appointed by the government [untrue]. The chief is under the supervision of His Excellency, The President, Dr. Siaka Stevens.... In case of difficulties he can either send me or the court's clerk to the Attorney General.... I remind you that you don't come here to quarrel with us, you come here to regard the chief's authority and in view of that we hope you will properly behave yourselves.

Respect for the court is also encouraged by the use of printed summons and receipt forms. In one court the chief had employed a typist who sat with the headman, a typewriter in full view. He also had a stack of red (secret) files, which he had borrowed from a friend in the Ministry of Interior, lying prominently on the table.

Once the opening formalities are completed, the first case is called. Both the plaintiff and the defendant are required to pay, in addition to the summons fee, a hearing fee. Witnesses for both litigants are identified and usually asked to leave the courts. The plaintiff is seated on a low stool before the headman and his jurors and asked to explain his case. When he has finished, the defendant is allowed to speak. At this point the amount of the *bukta* is set. The *bukta* is the sum of money the plaintiff agrees to pay the defendant if his charge is proven to be a lie. The defendant is required to match this amount. The *bukta* is held by the chief until the case is settled and then handed to the successful party. Although a defendant may be allowed to stipulate a lower amount because of his personal circumstances, his chances of winning could be affected by this evidence of potential lack of courage.

After the litigants have given their testimony, the *bukta* has been agreed upon and the money lodged with the chief, the witnesses are called one by one. To be asked to serve as a witness in a case is a serious matter. They are the only participants who are required to take an oath before the court that they are speaking the truth. Oaths are sworn on a variety of "medicines" and on the Koran. In most courts, the witness is required to place his hand on the Koran, his feet inside "the bag,"

drink water which has a piece of gold jewelry in it, and eat kola nut and "bread." He must take an oath on his life, and while he is speaking an umbrella or a sheet is raised and lowered over his head. One Mende man who was asked to take an oath protested that he did not understand this "native business": he was a Christian. The headman called for a Bible and it was added to the other medicines. Each court has a variety of its own "medicines" which are supposed to "catch" the victim and cause his death if he lies. The bag which is pulled over the feet is called *sybum* in Temne and is said to symbolize the swelling of the lower regions that will occur before death. Kola nut is widely used for ceremonial purposes in Sierra Leone. The "bread" is rice flour dough and figures in other rituals as well. The umbrella, or sheet, also symbolizes death. At a Muslim funeral a sheet is raised and lowered over the body as it is lowered into the grave. An excerpt from one case illustrates this part of the court proceedings. The chief's first remarks emphasize the manner in which the courts replace the functions of the family in the city.

Chief: Madam, we have called you to answer evidence in this case and the evidence you have to give is between you and God. As I was saying our mothers are not here, our fathers are not here, but this is a place for all of us [i.e., although our parents are not here to decide this case, the court represents both sides of the family and is not biased in favor of either]. I sit here for your blessings and if you did not want me, nobody will come to me. So now we not only have the Holy Koran, but we also have the bag. Here is the bread, and I spent Le.40 to bring the woman who made it and who kills people. She is from Mange Bureh [a town in the Provinces] and she is called Ya Bom Saylor. So I must speak openly to all of you so that you know the situation. If anybody makes any bargain to spoil life, it is a sin. That is what I want to inform you. This is why I have called you. Now you have agreed to answer as witness in this case. Come and swear. Swear here.

Witness: [repeating after the chief] I, Namina, have been called in court to answer witness in a case which concerns a lappa [i.e., a skirt] debt. I was there when the lappa was taken...I have come to explain and tell the chiefs the truth. As I have come to tell this truth, and say a lie, let the

Koran enter my stomach and when I fall ill as a result of this, let me breathe as an umbrella is breathing [i.e., let me die]....

The possibility of the witness lying despite the oath is recognized in the chief's next words:

Chief: Madam, you don't have any case with anybody here, but this woman [the defendant] has a right to ask you a question and I have right to ask you questions. If you tell a lie, you will be fined Le. 10 besides the swearing you have just done. So you must think about the situation when talking.

The content of the "swear" may differ from time to time allowing for the expression of a certain amount of creative imagination.

Juror: [supervising an oath] Say I am called to give evidence in the case between Ansumana and Bockari. I am called upon to speak the truth on oath on the Koran. If I give false evidence, may I be affected by the Koran so that I shall become mad stripping myself naked and dancing in the street. If it is true evidence that I am coming to give, may all that I undertake go well with me. Knock three times on the Koran, bite this kola nut, chew it and swallow it, then drink this water.

On other occasions witnesses were required to wish that their stomach would swell up and burst, or that they would die of diarrhea if they failed to tell the truth.

There are instances when there is no witness to the issue being disputed and the defendant claims that he is innocent. The headman may then ask each of the parties to take an oath on medicine that he is telling the truth. If only one is willing to do so, his innocence is then assumed and the other person loses the case. If both are willing, some other basis for concluding the case will be found, or, as so often happens, the case is simply adjourned allowing the litigants to gather evidence for some future hearing (which usually never occurs).

Sometimes other criteria are used to reach the decision. In one case, for example, the plaintiff accused her sister's husband of having forced her to have sexual relations with him when they were driving in his car. Since this constituted incest according to customary law and would, it is believed, affect the well-being of her future preg-



"The unpleasantness of being summoned to court sometimes encourages people to settle differences." This family has decided to ask permission to withdraw their case.

nancies, she reported the matter to her sister. Although the brother-in-law maintained his innocence, the headman found him guilty because, as he put it, "It is very hard for a man to prove he did not have sexual intercourse, if a woman has said he has." The fact that a woman's word might be taken over that of a man in these circumstances does not imply that women are generally regarded as more honest than men. It is because, in such a case, the woman who confesses to such an act usually stands to suffer in other ways even if she is not responsible. Her fertility could be endangered, her children could become ill or die, or some other tragedy could befall her, and so it is assumed that no woman would make such an accusation without cause.

Witchcraft cases also necessitate the use of oaths on medicine because there is no other way to prove guilt or innocence. Many headmen manage these cases in such a way as to discourage casual accusations. Both the accuser and the accused are required to take an oath on medicine and both are forced to incur heavy expenses. If the accuser does not die within a specified period (usually six months) the accuser must repay the accused all his costs and also pay a heavy fine to the headman. When, as does frequently happen, a person volunteers the information in the court that he is a witch, he is fined.

The dependence upon the use of medicines and "swears" in the practice of customary law is

emphasized in the statements made by one headman when he was asked about the possibilities of codifying customary law. His remarks also underline the important role of the courts in the urban setting where the official institutions are incompetent to deal with cases that produce serious social dislocation.

Customary law is difficult to write down for three main reasons. Firstly, it involves secret societies. Secondly, it is in the mind of the person like witchcraft. As far as these two facts are concerned, it is hard to bring a witness in a case concerning a secret society, except it is handled by persons who know what secret society really is. You can't bring a witness for witchcraft because it is in the person. For these two reasons I don't see how customary law can be codified. The third point is that customary law involves "swears".... In the police station or if you take a case to the Magistrate Court, they certainly won't go and call the gbom person [a person who owns this particular medicine] to go and swear there. But here we have the authority to bring anybody from anywhere in the country to come here and swear the person. Witchcraft is the same thing. You can't take someone to the Magistrate Court and prove that this person has killed your son. But here we have ways and means to go about these things and have somebody say the truth. For example, somebody can accuse you that you are a witch, but how could that person prove it? The only way is to bring swears and if...you don't die, then you are not a witch. How can you prove such things with the police?

As one man aptly remarked "The rich man has his lawyer, we poor men have only our medicine."

The Effectiveness of the Courts

Studies of the procedures of customary law courts in Africa have often noted that the functions of arbitration and reconciliation take primacy over the determination of guilt and responsibility. The Local Courts in the Provinces of Sierra Leone, which administer customary law, have been strongly influenced by English legal procedures, and render judgments more or less strictly in terms of the plaintiff's charge. The headmen courts, on the other hand, have been only indirectly influenced by English legal concepts, and place comparatively more emphasis upon arbitration and reconciliation of the liti-

gants. In many cases both parties to a dispute are found to be in the wrong. Even when a case is decided in favor of a litigant, he is likely to have to endure a strong reprimand from the headman for his own wrong actions. One headman reminded a litigant who lied that if he had been in the Magistrate Court, he would have been fined for perjury. "However," as he put it, "We are here to make peace."

In the first place the court does not restrict itself to deciding the case on the basis of the plaintiff's charge. All details of past events leading to the dispute are also considered. A very large proportion of cases heard in the headmen courts begin, for example, with the plaintiff charging the defendant with the use of abusive or obscene language against him. Although the defendant may readily admit (or be forced to admit because there were witnesses) his guilt, the reasons he gives for having abused the plaintiff may lead the court to pass judgment on the plaintiff for an action not mentioned in the original charge. The hearing of one case usually requires many hours of courtroom interrogation before the entire history of the dispute is exposed. Litigants are not only given the opportunity but are also encouraged to go into every minute detail of the case. This process may take hours and it is rare for an individual to be hurried in his presentation. The following case is an illustration of how such details of personal relationships may give rise to information upon which the headman settles the case.

Dura Turay summoned Senthos Sesay for having used abusive and obscene language against him. Turay explained that he had found Senthos's small son sitting on a fence which he had just built, and realized that the child was in danger of falling. As he lifted him down, he scolded the child and gave him two light strokes on his hip with "two of his fingers." The child went screaming to its mother. Senthos, the mother, came to find out who had "flogged" her child. When Turay explained the situation, the mother refused to accept that he had done her a favor by saving the child from a possible accident and proceeded to berate him.

She prayed to God that I be cursed and that I be involved in accidents. She also cursed my children. I then told her she was an ingrate. She fur-

ther remarked that I was not fit for any human society and that I was a wicked beast and a bully. I then asked her whether her child was not my child [i.e., do not all adults have a responsibility for the safety of all children]. She told me that all my prayers were futile and fake and that I was only opening my arms to God while I claimed to be praying.... I then asked her whether she had no respect for me or my wives or children.... When I was leaving she went after me pouring all terrible curses. I avoided her and went to the backyard. She followed me and poured all types of obscene words on me. I threatened to take her to court. She remarked that if I did not sue her, I was impotent. I was very angry, but I controlled myself and decided to bring the matter to you and the elders of this court. I want the defendant to prove in this court that I am wicked and bestial, impotent, and that she owns the fence that I built. That is all. God bless us all.

When Senthos took the stool as a defendant, she admitted she had used this obscene language but proceeded to explain another incident that had occurred earlier and which had involved her older son. He had "spoiled an iron" belonging to the plaintiff and ever since then, she explained, Turay had had a grudge against her and her children. The court concluded that Turay had not flogged the younger child out of paternal feelings only.

.... This case has elements of what the Englishmen call malice and we Temnes call to have a grudge or to bear something ill in the mind.... Pa Dura has admitted he mentioned the previous destruction of his iron.... Well, as I have been saying here over and over, we in this court decide cases without fear or favor.... This court decides you flogged the chap out of malice and we therefore decide this case in favor of the defendant. You are guilty of malice. Now the court wants your view of this iron matter. Do you want the defendant to pay for it?

The plaintiff indicated that he did not require payment, and the headman concluded the case, saying he hoped the iron would not be the cause of any further victimization.

There are frequent instances where the defendant, or a relative of either of the litigants, requests permission from the headman to withdraw



"One of the by-products of a case being heard in court is an enormous amount of publicity."

the case from court in order to reach an amicable settlement without heavy financial expenditure. Sometimes, it would appear that the unpleasantness of being summoned to court in itself encourages previously recalcitrant persons to settle their differences. In one case, for example, the defendant's brother and a tribal elder appeared before the chief to beg him and the plaintiff for permission to withdraw the case. The defendant was accused of using abusive language and the family was convinced of her guilt. The headman agreed, but required the defendant's family to refund the summons fee to the plaintiff and the latter was asked to lay his hand on her head, to indicate the apology was accepted. One of the jurors reminded the parties, albeit inaccurately, of what would have happened if they had taken their case to the Magistrate Court: the fines would have been "Le.14 and the defendant would have been sent to prison for 12 months." However, as he put it, "People who come to the headman's court enjoy the privilege of begging [i.e., apologizing]."³

In some cases people are willing to settle their differences only after being subjected to the sanctions of the court. In one case where a landlord was found guilty of using abusive language against a tenant, one of the other tenants ex-

plained to the court how he had tried in vain to get the defendant to settle the case at home. He pointed out that the landlord had now lost a considerable amount of money in both compensation awarded to the plaintiff and all the unnecessary court costs. The chief and his jurors appealed to the landlord to remember that they were all living together as a family in the same house and that it was essential to live in harmony.

After this speech the plaintiff and her family withdrew to discuss the matter. They recognized that keeping the money that the court had awarded them would create even more tension in the household. When they returned, they told the court that they had decided to return the money to the defendant, but they warned him that from now on they should always try to settle their petty disputes at home, instead of bringing them to the chief. They presented the headman with 20 cents to thank him for helping them achieve peaceful relationships once again.

A very large proportion of the cases brought to the courts are never concluded. In an analysis of the cases recorded by the clerk in one headman's court over a period of nine months, only half were actually settled. All the others were adjourned for one reason or another—either a witness was not present, or someone did not have sufficient money to meet the costs imposed by the court at some point in the case, or the defendant or plaintiff did not appear in court at the appointed time. Most frequently a case is interrupted when the amount of the *bukta* is set on the pretense that the parties will return with the cash at the next sitting of the court; many never return.

Still, quite a number of people are remarkably persevering. Cases were observed where the plaintiff had been attending the court faithfully for several months in the hope that his case would be heard. The fact that a case is not concluded in a formal juridical sense is irrelevant to the achievement of other aims of the litigants and the social functions of the courts. One of the by-products of a case being heard in the court is an enormous amount of publicity. Whether or not the disputing persons are reconciled or the wrongdoers are judged, the actions of the individuals involved have been subjected to the scrutiny of the wider public, and the elders have

3. The concept of "begging" in the Sierra Leone context is one of prostration before the person from whom a favor of forgiveness is sought. Adding the words, "I beg" implies the (irresistible) cachet of superior status and makes denial of the request virtually impossible.

had an opportunity to offer eulogies on acceptable behavior.

Some cases concern matters which are too trivial to be continued. Even if these cases are not concluded, however, the parties have gained some gratification in humiliating the defendant. A headman, summing up a case, suggests that some people seek satisfaction simply from flaunting their money before the court.

Please listen to me. You knew that Kabba offended Saidu. He fell in love with Saidu's wife and was bold enough to beat her [only a husband's prerogative]. The husband went to revenge for his wife. Who then should you have favored? ... If this case was taken to the Magistrate Court you would have been sentenced to five years imprisonment. Nothing would have caused you to escape such punishment. You are fined Le.10. Lady, you are fined Le.10 for involving yourself in this extramarital practice. May the Lord bring peace amongst us. All of us should live in unison. I have noticed that people force themselves to be involved in lawsuits thereby displaying their financial backgrounds in court. You forced yourselves in betting [the bukta]. When you happen to lose your money you blame the court. The only money the court retains is the court expenses paid. ... With such money for instance, these record books cost Le. 24. At the end of every month the total salary of the policemen is Le.36. I am not paid by the government but what I cherish is the idea of maintaining peace and order to ensure the smooth running of our beloved country. It is very unreasonable for you to come here as a means of displaying your wealth. ... I am not interested in your money, but only that I restore peace and order and to discern those who are wronged from the wrongdoers.

A further and important function of the headmen courts is the provision of a form of marriage and family counseling service. In the process of hearing a marital dispute the headmen and his leaders take the opportunity to lecture those assembled on responsible moral behavior for both husbands and wives. A husband who cannot keep peace and order within his household is reprimanded and given guidance for future action.

In one case, for example, where a dispute between co-wives was being heard, the husband became embarrassed and wanted to withdraw the case. The headman refused to allow this and scolded the husband.

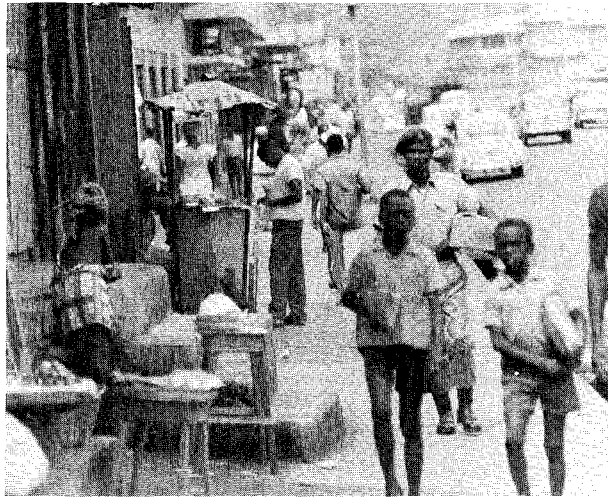
... You have married two women and these women had a quarrel. You were here when the one who was making her statement spoke. Why did you not halt her and do what you want to do now? If you had been impartial at home you should not have allowed the plaintiff to have made her statement. You should have asked for a withdrawal of the case from the beginning or should have asked us to settle it domestically. But you have waited until the plaintiff has made her statement. When the defendant wanted to start speaking, you stood and said you wanted the case to be withdrawn. Is this the way to behave to mates [co-wives]? My dear, we cannot allow you. We want to hear the defendant.

A wife who is not fulfilling the conventions of her role will also be reminded of her duties. The leaders of the ethnic communities represent a very conservative position in regard to the family. The urban situation is not conducive to the maintenance of the African family system, but the courts provide an arena in which traditional moral codes are upheld as the standard against which the behavior of the litigants is measured.

The Authority of the Courts

As noted in Part I of this series, the headmen have been explicitly forbidden since 1932 to exercise judicial duties. While this has had no effect upon the establishment of courts, it has affected the headmen's position among some segments of the population. Despite their having acquired some of the trappings of the English courts in order to impress their followers, the absence of genuine legal authority has rendered the task of the headman progressively more difficult. In recent years, an increasing number of people have gradually become aware that these courts have no jurisdiction over them. Consequently, some who are summoned refuse to attend the court. Others appear, only to announce that they will have nothing to do with the court, and then leave.

Although the headmen do not enjoy central government support, the situation is not so clear

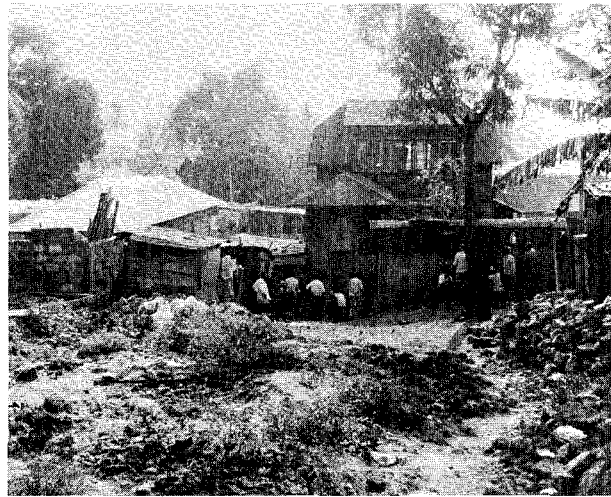


"In an urban environment, fellow tribesmen still apply kinship terminology and kinship expectation to most of their relationships."

as far as the police are concerned. Many policemen, in fact, are willing to serve as court policemen for the headmen when they are off duty. They wear their uniforms in court and are often sent to collect individuals who have been summoned but failed to appear. They also have been seen to use a cell in the police station to detain someone on a headman's order. Their presence and cooperation is often required, as in the following case that was recorded by an assistant.

There was a fight at the court barri yesterday which brought the hearing of cases to an abrupt end. The cause of the fight was due to a case between one Mr. X and Mr. Momoh. Mr. X was about to give his statement when the women in the court clapped to show their support for him. Mr. Momoh marched in front of Mr. X the plaintiff, saying that nobody in the court should support anything Mr. X has to say and since they had already done that by clapping, he was not going to allow Mr. X to say anything. Mr. X grew angry and asked Momoh to get out of his sight. Momoh refused and grabbed the plaintiff by the neck and they had to be separated. The fight made the other people waiting for their cases to flee out of the court. Later, a serious fight took place outside the court between Mr. X and Momoh. Momoh's penis was wounded. They were both taken to the police station.

I was later told that Momoh was taken to the hospital while Mr. X was put in a cell at the Kissy



Outside another unofficial court—"The costs incurred in the headmen's courts do not appear to deter people from bringing their cases for treatment."

Police Station. However, the chief told me today that he would get Mr. X out of the cell because Momoh had interfered in the case.

Before they left for the Police Station, their wives paid the fines levied on them for fighting in the court barri. The sums levied were Le.10 each, but they apologized and were asked to pay Le.4 each instead.

The headman's authority receives a considerable boost when a case is directed to him by the police. When Ali Sesay's wife disappeared, he reported the latter to the police. He explains to the headman why he has brought his case to the court.

...I was keeping a close watch for my wife when I was informed that my wife is staying with John Mansaray... who is working at Leone House as a servant for Taylor Woodrow [a British firm]. After my report, the officer in charge gave me one police officer to escort me to the Leone House. On our reaching there the Policeman brought John down. We then returned to the Eastern Police Station. The O.C. [Officer in charge] called us in. He interrogated John who told the O.C. that the woman is Mamy Kaday. The O.C. further told us that he would have taken action but as this was a case for the chief, he finds it best to refer the matter to the chief.

There is some evidence of complicity between the police and headmen in order to avoid adverse publicity in certain areas. One man, for

example, reported that he had been summoned by his landlord for overdue rent. His summons had been delivered in his absence and so he refused to attend the court on the appointed day. One Sunday, four men appeared at his door, instructing him to go to the court. When he arrived, he was given a severe beating.

They removed my shoes and shirt...and threw me outside. The Chief then walked up and told me that if I made any false movement they would beat me near death. So I remained outside in the same place for about two hours during which several people came and asked whether I was a Mende or a Lokko, where I came from...I refused to answer any questions.

After some time, the man was brought back into the court for his case to be heard. Fortunately for him, one of the jurors recognized him.

...he exclaimed that I was a very popular man of respect and that I had worked with him for some time during the S.L.P.P. [Sierra Leone People's Party] days. This made them all, including the Chief, to be very afraid. They gave me various treatments to relieve me of my pains. Mr. Bangura gave me two tablets and water to drink. But I only pretended to drink and threw the tablets away afterwards. Another man, Massaquoi, brought and rubbed Ben Gay on my aching parts. Mr. Bangura said that he was very sorry for the treatment I received and that I would not have been so ill treated if he were present.

Before Alie Sesay could leave the court, he was asked who would stand bail for him. He replied that he knew no one, and Mr. Bangura told them to release him on his own recognizance.

After leaving the court Alie Sesay went to the doctor, who refused to treat him without a police form. He approached the C.I.D., who referred him to the Western Police Station. They declined to hear his story. He then went to the Central Police Station, which referred him back to the Western Police Station. He was convinced that the policemen were taking no action because "the chief had spoken to them."

Sometimes headmen attempt to bluff the litigants by telling them that the Magistrate refers cases to them or that they are asked to give evidence in the Magistrate Court, when cases are appealed there. Sometimes, however, unsatisfied

litigants threaten the headman with the possibility of taking the case to the Magistrate Court, and this usually has an immediate effect on the outcome of the case. In the following case, however, the headman managed to convince the plaintiff that he would do no better at the Magistrate's hands.

Plaintiff: This case has not been justified. You should get the truth from the accused persons and also get the truth from the witnesses. I guess you should refer the case to the Magistrate Court.

Chief: Well, we have got evidence from the witnesses. Even if you go to the Magistrate Court, the decision will be based on the evidence. All I ask is that you refer your case to God.

I am refunding your summons fees....I am advising you not to refer this case to the Magistrate Court. If you do so you will lose your right. Just a brief explanation. You summoned the father of the accused and he submitted that the accused persons did not abuse you. Your husband's evidence said that they abused you, but a third witness said that you were not abused at all. In the Magistrate Court your husband's evidence will be considered null and void, whereas the other two evidences are in favor of the accused persons. In view of these facts you will be the loser.

The headman's authority is supported by respect for his position as an elder and a leader of his community. Headmen, like chiefs in the rural areas, are thought to have certain additional powers arising from the ceremonies creating them headmen which could make failure to comply with their demands dangerous. The very fact that so many people do answer summons and that the courts are always filled with large numbers of the public also indicates the extent to which their authority is generally recognized. It is not uncommon for a headman to order a litigant found guilty of some particularly objectionable behavior to go outside to sit in the sun for several hours before a judgment is given. They always comply. The heavy case load of every court also testifies to the fact that a large number of people view the headman as having legitimate authority over them. Finally, at any time since 1932, the Ministry of the Interior could have acted against these illegal courts, but only sporadic action has ever been taken. Clearly, neither the colonial nor the independent governments ever fully rejected

the importance of the functions the courts performed.

Financial Practices of the Courts

Consideration of the effectiveness and authority of the headmen courts is incomplete without a discussion of their financial practices. The overwhelming preference for them over the Magistrate Court is demonstrated by the fact that while a case may be heard in the latter at a cost of only a few shillings, a man may spend Le.30 or more in the process of the hearing of his case in the headmen courts. When we remember that the majority of people making use of them earn very low salaries and that the court costs may be more than a month's wages, the preference is even more significantly demonstrated.

Summons and hearing fees are separate charges and vary from court to court. It is not unusual to find courts charging as much as Le.5. It has been noted that cases are often dropped after the *bukta* money has been handed for safe-keeping to the chief. In our experience, the general practice is for the headman to retain this money, or to return it only under coercion. Other fines and fees are imposed by the courts. People may be charged for being in contempt of court if they make a noise or fight or show other forms of disrespect. Women may be fined for wearing a short dress. Fines are also imposed on people who confess to, or are found guilty of, having committed actions regarded as particularly serious breaches of customary law. For example, admission of witchcraft always means imposition of a fine. The same happens when someone is pronounced guilty of having committed incest. Although cases involving adultery are common, when the evidence exposes acts which are considered grossly indecent or blatantly promiscuous, the headman may decide to express the community's disapproval by fining the persons concerned.

The financial costs of the court make it necessary for many people to borrow money, and when they cannot repay it, they find themselves embroiled in further court proceedings and more debts. These risks are well known, however, and people are also aware that it is common for litigants to lose their money as a result of financial irregularities practiced by the headman. Nevertheless this knowledge does not appear to deter

many of them from repeatedly bringing their disputes for arbitration. Moreover, it is not unusual for persons who have lost a case in one court to take it to another headman where they think they may have a better chance of winning—thus involving themselves in even greater expense.

I have no data on how much headmen earn from their courts, although I know of many examples where litigants' court costs have exceeded Le.30. On the other hand, the headmen have heavy financial obligations. They must pay people to carry out the tasks of the court. They are also expected to operate like other "big men" within the society, in that their patronage is sought by many. They may find themselves liable for all sorts of economic burdens, such as housing people who arrive in the city without anywhere to live, paying school fees of their own and others' dependents, making contributions at funerals and ceremonial occasions, entertaining visiting politicians and other prominent figures, and answering a wide variety of requests that require financial outlay.

In Sierra Leone, to disregard a plea for assistance from a kinsman is ill-advised. In an urban environment, fellow tribesmen still apply kinship terminology and kinship expectation to most of their relationships. Nor, in an ambience where economic security is so tenuous, does anyone care to be branded a "Scrooge"—for one never knows when the wheel of fortune may reverse roles and situations. Indigenous values continue to thrive, and generosity remains not only a paramount virtue but also a prerequisite for enjoying and maintaining the respect of one's fellows.

(October 1979)